

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 1-3, 5-14, and 16 will be pending in the present application. Claims 4 and 15 have been cancelled.

I. Correspondence Address Correction

A Change of Address Notice, requesting that the correspondence address for the present application be changed to the following address, was filed on May 6, 2002:

Michael W. Haas
Respironics, Inc.
1010 Murry Ridge Lane
Murrysville, PA 15668-8525

However, it does not appear that this address changes was entered into the Patent Office records because the August 5, 2002 Office Action was erroneously mailed to the prior correspondence address.

Applicant again requests that the correspondence address for the present application be changed to the above-identified address. A newly executed Change of Correspondence Address form, executed by the undersigned applicant's representative, who is the attorney of record for this application, that again requests that this change of address be entered is enclosed.

Please also note that the Change of Correspondence Address form requests that the present application be associated with customer no. 30031, and that the PAIR system be updated to reflect this designation. This is necessary so that the undersigned applicant's representative can access this application via the PAIR system directly.

II. Objection to the Specification

The specification stands objected to as failing to provide proper antecedent basis for the claimed subject matter. In particular, the Examiner alleges that the claims "means for applying a distending force" recited in claim 11 is not support by the specification. Applicant respectfully traverses this objection for the reasons presented below.

The Examiner's attention is directed to paragraphs [13] and [14], which describes chest brace 30 (including the chest plate 32 and back plate 34), the attachment of the plates on the patient, and manner in which these plates function to provide the distending force on the patient. This description is provided with reference to FIGS. 1-4B.

As explained in these paragraphs, anterior member 38 is attached to the patient's chest and posterior member 40 is attached to the patient's back. Flexible linkages 42 couple anterior member 38 and posterior member 40. The flexible linkages control the distance between the anterior member and posterior member. By attaching the anterior member and posterior member to the patient and controlling the distances between these two members, the chest brace prevents the patient's chest walls from collapsing, particularly during inhalation. Obviously, if the chest wall collapses without the chest brace, the chest brace, when worn, must be imparting a distending force on the patient, i.e., to prevent the collapse of the chest wall.

The features of the chest plate and its operation are indicated in paragraph [13] as being disclosed in U.S. Patent Appln. No. 09/528,878, the contents of which are incorporated into the present application by reference. The '878 application has now issued as U.S. Patent No. 6,533,739. The specification has been amended above to identify the '878 patent application by its patent number. Applicant requests that the above amendment to the specification be approved. In addition, applicant notes that incorporation by reference of a U.S. Patent is a proper technique by which to provide a complete description of an invention. See, e.g., M.P.E.P. § 608.01(p).

For the reasons presented above, applicant respectfully submits that the specification provides a proper antecedent basis for the claims, including claim 11. Accordingly, applicant respectfully requests that the above objection to the specification be withdrawn.

III. Claim Rejections Based on the Cited References

Claims 1, 6-9, and 11-14 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,848,966 to Gusakov et al. ("the '966 patent"). Claims 1-14 and 16 also stand rejected under 35 U.S.C. § 102 as being anticipated by or, in the alternative, under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 4,947,865 to Hon et al ("the '865 patent. Claims 2 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '966 patent" in view of U.S. Patent No. 5,124,076 to Smuckler ("the '076 patent"). Claims 3-5 and 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '966 patent" in view of U.S. Patent No. 5,983,131 to Weaver et al. ("the '131 patent") or U.S. Patent No. 3,713,435 to Szpur ("the '435 patent"). Finally, claim 16 stands rejected under 35 U.S.C. § 103 as being unpatentable over the '966 patent in view of U.S. Patent No. 3,610,229 to Zenkich ("the '229 patent"). Applicant respectfully traverses this rejection for the reasons presented below.

Independent claims 1, 9, and 12 have been amended to clarify the features of the present invention. For example, the description of the patient contacting assembly has been amended to include a step portion that provides an exposed end portion into which a release fluid can be injected. Furthermore, the independent claims have been amended to clarify that the purpose and operation of injecting the release fluid is to urge the first surface of the patient contacting member and the surface of the patient apart. That is, the release fluid, when injected into the channel, fills the space between the first surface of the patient contacting member and the surface of the patient. Filling this space dislodges the patient contacting assembly from the patient in a pneumatic fashion. Dependent claims add the additional limitations that the release fluid acts as a solvent for an adhesive disposed on the first surface of the patient contacting member.

Applicant submits that the cited references, taken alone or in combination, do not teach or suggest a patient contacting assembly or method of attaching and detaching a patient contacting assembly to and from a surface of a patient having these features. The Examiner cites the '865 patent for the proposition that a stem can be provided on a patient contacting assembly. However, the channel provided in stem 12 of the '865 patent is very wide relative to the rest of the sensor. There is no teaching or suggestion that this channel in stem 12 be used to introduce a

release fluid between the sensor and the patient to lift the sensor off of the patient. Quite the opposite; the '865 patent teaches providing dedicated openings 31 over the expose surface area of the sensor into which a solvent can be introduced for dissolving the underlying adhesive. See column 3, lines 18-21, of the '865 patent. Thus, the '865 patent does not teach providing a stem into which a release fluid is introduced.

The '865 patent further recites providing an absorbent material 35 between the inner surface of the sensor and the patient. See FIGS. 2 and 3, and column 3, lines 27-42. Applicant submits that the presence of this absorbent material prevents the solvent introduced via openings 31 from providing the hydraulic surface-separating function of the release channel/surface configuration of the present invention. In the '865 patent, the absorbent material will absorb the solvent as it is injected into openings 31 so that the solvent can act to dissolve the adhesive. Absorbing the solvent prevents the solvent from acting as a hydraulic surface-separating mechanism. Thus, the '865 patent does not provide the features recited in the independent claim. Applicant further submits that the other references of record do not teach or suggest the features of the present invention missing from the '865 patent.

For the reasons presented above, applicant respectfully submits that independent claims 1, 9, and 12 are not anticipated or rendered obvious by the cited references. In addition, claims 2-3, 5-14, and 16 are also not anticipated or rendered obvious due to their dependency from independent claims 1, 9, or 12. Accordingly, applicant respectfully request that the above rejection of claims 1-3, 5-14, and 16 be withdrawn. Claims 4 and 15 have been cancelled rendering their rejection moot.

SCARBERRY -- Appln. No.: 09/924,869

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

By Michael W. Haas

Michael W. Haas

Reg. No.: 35,174

Tel. No.: (724) 387-5026

Fax No.: (724) 387-5021

RESPIRONICS, INC.
1010 Murry Ridge Lane
Murrysville, PA 15668-8525

Attached: Change of Correspondence Address